

Assembly Bill No. 2374

Passed the Assembly July 15, 2008

Chief Clerk of the Assembly

Passed the Senate July 14, 2008

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2008, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Sections 106976, 107155, and 114980 of, and to add Article 5.5 (commencing with Section 107115) to Chapter 4 of Part 1 of Division 104 of, the Health and Safety Code, relating to radiologic technology.

LEGISLATIVE COUNSEL'S DIGEST

AB 2374, Spitzer. Radiologic and nuclear medicine technology: scans.

Existing law, the Radiation Control Law, designates the State Department of Public Health (department) as the department responsible for the regulation of radiation control in the state, and imposes various duties on the department in connection with that designation, including developing programs for evaluating the health and safety hazards associated with using sources of ionizing radiation, licensing and regulating byproduct, source, and special nuclear materials, and adopting regulations relating to the control of sources of ionizing radiation. A violation of the Radiation Control Law is a crime.

Existing law provides for the Radiation Control Fund, which is a special fund in the State Treasury into which the fees, penalties, interest earned, and fines imposed under the Radiation Control Law and other specified provisions of law relating to the regulation of nuclear medicine and radiologic technology are deposited. Existing law authorizes the department to expend moneys in the fund, upon appropriation by the Legislature, for the costs related to, among other things, the enforcement of the Radiation Control Law and for certain provisions regulating radiologic technology and nuclear medicine.

This bill would specify that the moneys in the fund are also available for expenditure by the department to implement the on-the-job registration requirements of the bill.

Existing law requires the department to provide for certification of diagnostic radiologic technologists and standards of competence for persons who perform nuclear medicine technology.

Existing law authorizes any person who is currently certified as meeting the standards of competence in nuclear medicine

technology to perform a computerized tomography scan only on a dual mode machine on which both a nuclear medicine procedure, including a positron emission tomography scan, and a computerized tomography scan may be performed if certain conditions are met.

This bill would authorize any person who has registered with the department as participating in on-the-job training to meet required clinical competencies, as described below, and who is under the direct supervision of a person who holds a current, valid certificate in diagnostic radiologic technology to also perform these scans.

Existing law also authorizes a person who holds a current, valid certificate in diagnostic radiologic technology to perform a positron emission tomography scan only on a dual mode machine on which both a positron emission tomography scan and a computerized tomography scan may be performed if certain conditions are met.

This bill would authorize any person who has registered with the department as participating in on-the-job training to meet required clinical competencies, as described below, and who is under the direct supervision of a person who currently meets the standards of competence for the performance of nuclear medicine technology, to also perform these scans.

This bill would require any person seeking to participate in the on-the-job training described above to register with the department for a period of no more than 2 years by submitting an application containing prescribed information and a fee of a specified amount. The bill would provide that the fee shall not exceed the department's costs of administering the on-the-job training registration, and would require moneys collected from the fee to be deposited in the Radiation Control Fund, as specified. The bill would authorize the department to grant a one-time 6-month extension of the registration period under specified circumstances, as provided, and would make a violation of these provisions punishable as a misdemeanor.

By creating a new crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. Section 106976 of the Health and Safety Code is amended to read:

106976. (a) Notwithstanding any other provision of the Radiologic Technology Act (Section 27), a person who is currently certified as meeting the standards of competence in nuclear medicine technology pursuant to Article 6 (commencing with Section 107150) may perform a computerized tomography scan only on a dual mode machine on which both a nuclear medicine procedure, including a positron emission tomography scan, and a computerized tomography scan may be performed if both of the following conditions are met:

(1) The person holds a current, valid certificate in computerized tomography issued by the American Registry of Radiologic Technologists, or a similarly recognized organization, has registered with the department pursuant to Article 5.5 (commencing with Section 107115) as participating in on-the-job training to meet the clinical competencies required by the American Registry of Radiologic Technologists, or a similarly recognized organization, and is under the direct supervision of a person who holds a current, valid certificate in diagnostic radiology technology, or is a student described in subdivision (b) of Section 106975.

(2) The person is under the supervision of a person who is an authorized user identified on a specific license authorizing medical use of radioactive materials pursuant to the Radiation Control Law (Chapter 8 (commencing with Section 114960) of Part 9).

(b) A violation of this section is a misdemeanor pursuant to Section 107170 and a violator is subject to discipline pursuant to Section 107165.

SEC. 2. Article 5.5 (commencing with Section 107115) is added to Chapter 4 of Part 1 of Division 104 of the Health and Safety Code, to read:

Article 5.5. Radiologic and Nuclear Technology On-the-job
Training

107115. (a) A person seeking to participate in on-the-job training for purposes of paragraph (1) of subdivision (a) of Section 106976, or clause (i) of subparagraph (A) of subdivision (d) of Section 107155, shall, prior to his or her participation, do both of the following:

(1) Register with the department by submitting an application in accordance with subdivision (b).

(2) Obtain a receipt of acknowledgment, as described in subdivision (c).

(b) The application shall contain all of the following information:

(1) The applicant's legal name, mailing address, and telephone number.

(2) A statement identifying whether the on-the-job training will be performed to meet the requirements of the American Registry of Radiologic Technologists pursuant to paragraph (1) of subdivision (a) of Section 106976, or to meet the requirements of the Nuclear Medicine Technology Certification Board pursuant to clause (i) of subparagraph (A) of paragraph (4) of subdivision (d) of Section 107155.

(3) For those applicants seeking to meet the requirements of paragraph (1) of subdivision (a) of Section 106976, the certificate number as shown on the applicant's Nuclear Medicine Technology Certificate (NMTC) issued by the department pursuant to Article 6 (commencing with Section 107150).

(4) For those applicants seeking to meet the requirements of clause (i) of subparagraph (A) of paragraph (4) of subdivision (d) of Section 107155, the certificate number as shown on the applicant's Radiologic Technology Certificate (RTC) issued by the department pursuant to Article 5 (commencing with Section 106955).

(5) A letter from each facility where the applicant will perform the activities described in Section 106976 or Section 107155, as applicable. The letter shall be on facility letterhead that identifies the facility and its mailing and physical addresses, and shall include all of the following information:

(A) The license number as shown on the facility's specific license issued pursuant to the Radiation Control Law (Chapter 8 (commencing with Section 114960) of Part 9).

(B) Identification of the applicant within the letter and a statement that the individual is approved to perform activities in the facility to meet the clinical competencies required by the organizations identified in Section 106976 or Section 107155, as applicable.

(C) The name, signature, and date of signature of the person providing supervision pursuant to paragraph (2) of subdivision (a) of Section 106976 or clause (ii) of subparagraph (A) of paragraph (4) of subdivision (d) of Section 107155.

(6) The signature of the applicant.

(7) (A) A fee that is equal to the fee established pursuant to Section 107080 to obtain a RTC, provided that the amount of the fee shall not exceed the reasonable cost of administering this section.

(B) All moneys collected pursuant to subparagraph (A) shall be deposited in the Radiation Control Fund established pursuant to Section 114980, and used for the purpose described in that section.

(c) (1) Upon receipt of the information and the fee described in subdivision (a), the individual shall be deemed registered, and the department shall issue to the individual an acknowledgment of registration.

(2) The registration shall be valid for a period of 24 consecutive months and is not renewable, except as provided in paragraph (3).

(3) (A) If the individual fails to obtain a valid computerized tomography certificate issued by the American Registry of Radiologic Technologists or positron emission tomography certificate issued by the Nuclear Medicine Technology Certification Board, as applicable, within the validity period of the registration, the individual may reapply for a one-time six-month extension by resubmitting the application described in subdivision (b). If the individual fails to obtain the appropriate certificate during the extended six-month period, the individual shall immediately cease activities.

(B) The department may reauthorize the individual to resume activities upon the department's approval of an action plan submitted by the individual. The action plan shall detail the reasons

why the certificate was not obtained, how much of the required competencies have been completed, and what actions will be taken to complete the particular competencies and obtain the certificate. Reauthorization shall not exceed six months.

(d) A violation of this section is a misdemeanor pursuant to Sections 107075 or 107170, as applicable, and a violator is subject to discipline pursuant to Sections 107065, 107070, or 107165, as applicable.

SEC. 3. Section 107155 of the Health and Safety Code is amended to read:

107155. (a) Any person not currently licensed as a physician and surgeon pursuant to Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code, or as a clinical laboratory technologist, bioanalyst, or clinical chemist pursuant to Chapter 3 (commencing with Section 1200) of Division 2 of the Business and Professions Code, who performs nuclear medicine technology shall be subject to the standards of competence established by the department pursuant to this article.

(b) Nothing in this article shall be construed to limit the existing authority of, or scope of practice of, a physician and surgeon, clinical laboratory technologist, bioanalyst, or clinical chemist granted pursuant to their licenses, or to further require persons to establish competence to perform in vitro tests.

(c) In vitro procedures using radioactive materials shall be performed in a licensed clinical laboratory.

(d) This article shall not apply to any of the following persons:

(1) Any person employed by an agency of the United States government, while performing the duties of the employment.

(2) A licensed clinical laboratory technologist who administers a radioactive marker test substance to a human subject to perform a measurement on a sample containing the radioactive marker test substance that has been removed from the subject.

(3) A registered pharmacist who handles radioactive drugs in accordance with the California State Board of Pharmacy regulations contained in the most recent version of Sections 1708.3 to 1708.8, inclusive, of Article 2 of Chapter 17 of Title 16 of the California Code of Regulations.

(4) (A) A person who holds a current, valid certificate in diagnostic radiologic technology pursuant to subdivision (b) of Section 114870 may perform a positron emission tomography scan

only on a dual mode machine on which both a positron emission tomography scan and a computerized tomography scan may be performed if both of the following conditions are met:

(i) The person holds a current, valid certificate in positron emission tomography issued by the Nuclear Medicine Technology Certification Board, or a similarly recognized organization, has registered with the department pursuant to Section 106977 as participating in on-the-job training to meet clinical competencies required by the Nuclear Medicine Technology Certification Board, or a similarly recognized organization, and is under the direct supervision of a person who currently meets the standards of competence for the performance of nuclear medicine technology, or complies with the regulations issued by the department governing students of nuclear medicine technology in order to obtain a current, valid certificate in positron emission tomography issued by the Nuclear Medicine Technology Certification Board.

(ii) The person is under the supervision of a person who is an authorized user identified on a specific license authorizing medical use of radioactive materials pursuant to the Radiation Control Law (Chapter 8 (commencing with Section 114960) of Part 9).

(B) A violation of this paragraph is a misdemeanor pursuant to Section 107075 and a violator is subject to discipline pursuant to Sections 107065 and 107070.

SEC. 4. Section 114980 of the Health and Safety Code is amended to read:

114980. The Radiation Control Fund is hereby created as a special fund in the State Treasury. All moneys, including fees, penalties, interest earned, and fines collected under Sections 107100, 107160, 115045, 115065, and 115080, Article 5.5 (commencing with Section 107115) of Chapter 4 of Part 1, and the regulations adopted pursuant to those sections, shall be deposited in the Radiation Control Fund to cover the costs related to the enforcement of this chapter, including, but not limited to, implementation of Section 115000, Article 6 (commencing with Section 107150) of Chapter 4 of Part 1, and the Radiologic Technology Act (Section 27), and Article 5.5 (commencing with Section 107115) of Chapter 4 of Part 1, and shall be available for expenditure by the department only upon appropriation by the Legislature. In addition to any moneys collected by, or on behalf of, the department for deposit in the Radiation Control Fund, all

interest earned by the Radiation Control Fund shall be deposited in the Radiation Control Fund.

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

Approved _____, 2008

Governor